IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 4893 of 2006
With
FIRST APPEAL No. 4895 of 2006
With
CIVIL APPLICATION No. 14065 of 2006
With
CIVIL APPLICATION No. 14069 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.S.SHAH
and
HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ORIENTAL INSURANCE CO. LTD. - Appellant(s)
Versus
MINOR VATSAL TIMIRBHAI SHAH & 4 - Defendant(s)

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Appearance :
MR KK NAIR for Appellant(s) : 1,
MR MTM HAKIM for Defendant(s) : 1,
None for Defendant(s) : 2 - 5.

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CORAM : HONOURABLE MR.JUSTICE M.S.SHAH

and

HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 19/12/2006
COMMON ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE AKIL KURESHI)

The appeals are admitted. Learned advocate Mr MTM Hakim waives notice of admission of the appeals for the claimants in each appeal. Since issues arising are primarily between the appellant-Insurance Company and the claimants, it is not necessary to hear the owner/driver of the offending vehicle. At the request of the learned advocates appearing for the parties, the appeals are taken up for final disposal today.

2. These appeals have been filed by the Oriental Insurance Co. Ltd. challenging a common judgment and two separate awards dated 29.4.2006 passed by the Motor Accident Claims Tribunal (Aux.), Vadodara in MAC Petition Nos.760 and 1878 of 1998.

3. On 17.1.1998 while one Shri Timirbhai Shah, his wife Shilpaben Shah and minor son Vatsal were travelling in a maruti car going from Karjan to Vadodara, their car met with an accident. The car was hit by a matador bearing registration No.GJ-17-T 1393. The matador in question was insured by the appellant-Insurance Company. In the unfortunate accident, Timirbhai and his wife Shilpaben both died. Minor Vatsal, however, survived. For the death of

deceased Timirbhai, claim petition No.760 of 1998 came to be filed by his minor son Vatsal, aged father Mahendrabhai and his brother Paragbhai seeking compensation of Rs.60 lakhs. On the date of filing of the claim petition, Vatsal was aged 6 years, father of the deceased was aged 71 years and brother of the deceased was aged 43 years. For the death of Shilpaben, claim petition No.1878 of 1998 came to be filed by her minor son Vatsal seeking compensation of Rs.5 lakhs.

The Claims Tribunal in its impugned judgment came to the conclusion that the accident took place on account of sole negligence on the part of the driver of the matador. To come to such a conclusion, the Tribunal found that there was evidence on record to suggest that the matador was being driven on the wrong side of the road and hit the maruti car which was being driven by deceased Timirbhai on the correct side of the road. It may be noted that the accident took place on a national highway and there was eye-witness account to establish the above facts. In fact it has been established on record that when the maruti car was being driven by deceased Timirbhai on the correct side of the road, the matador came from the wrong side and hit the maruti car. Apparently, there was a road-divider on the highway and the matador was travelling on the wrong track and thereby caused the fatal accident.

With respect to the quantum of compensation,

the Tribunal took into account elaborate evidence led by the claimants to establish the educational qualifications of deceased Timirbhai and his work experience in different employments. The Tribunal also took into account the evidence to establish that deceased Timirbhai, on the date of the accident, was employed in Larsen & Toubro Company as a Manager. The evidence of father of deceased Timirbhai and an employee of Larsen & Toubro was considered by the Tribunal to assess the monthly salary of the deceased. From the oral as well as documentary evidence on record, the Tribunal found that the monthly income of the deceased was Rs.19,600/- on the date of the accident. Considering the educational qualifications and work experience, the Tribunal held that with passage of time monthly income of the deceased would have doubled. Estimation of the Tribunal was based on evidence led by the claimants in the form of deposition of the employee of Larsen & Toubro to point out comparative salary of other co-employees. Of course, there was some guess work needed and adopted by the Tribunal. The Tribunal thus assessed the average future income of the deceased at Rs.29,400/-. One-third of the said sum being Rs.9800/- was deducted for the personal expenditure of the deceased. The Tribunal thus found that the dependency benefit for the family would, therefore, be Rs.19,600/- per month i.e. Rs.2,35,200/- per year. Considering the age of the deceased which was 43 years on the date of the accident, the Tribunal adopted a multiplier of 13 and

awarded a sum of Rs.30,57,600/- (Rs.19600 X 12 X 13) to the claimants towards dependency benefit. The conventional sums of Rs.20,000/- for loss of expectation of life and Rs.5,000/- for funeral expenses were added, drawing the total award of Rs.30,82,600/-.

4. Regarding the claim petition filed by minor Vatsal for death of his mother Shilpaben, it was stated before the Tribunal that she was holding a degree of Bachelor of Science from Bombay University. Prior to her marriage, she was serving and after her marriage she was giving tuitions and earning Rs.4,000/- per month. The Tribunal, however, accepted her income of Rs.2,000/- p.m.. Taking future prospective income of Rs.4,000/- and averaging out the two, the Tribunal found that Shilpaben would have earned an average of Rs.3,000/- per month for the rest of her life. One-third of the said sum was deducted for personal expenditure of the deceased, leaving Rs.2,000/- per month as dependency benefit of the claimant. Thus yearly dependency of Rs.24,000/- was worked out by the Tribunal. A multiplier of 15 was adopted considering the age of the deceased being 37 years on the date of the accident. The Tribunal thus awarded Rs.3,60,000/- towards dependency benefit to the claimant and added Rs.20,000/- under the head of loss to estate and Rs.5,000/- for funeral expenses. The Tribunal eventually passed an award of Rs.3,85,000/- in the claim petition filed by the claimant for death of

deceased Shilpaben.

It may be noted that the Tribunal awarded interest at the rate of 7.5% per annum on such compensation from the date of the claim petition till realization.

5. It is these awards which are under challenge in these appeals at the instance of the Insurance Company.

6. At the outset, it may be noted that with respect to negligence of the driver of the matador in causing the accident, the Insurance Company has not raised any grounds in the appeals. Even otherwise, we find that negligence of the matador driver is writ large on the face of the record. From the evidence on record, it can be seen that the maruti car being driven by deceased Timirbhai was travelling on a highway and was being driven on the correct side of the road. The highway had a road-divider and matador came from the opposite direction, but on the wrong side of the road i.e. on the wrong track and hit the maruti car causing serious injuries to the passengers in the car including Timirbhai who was driving the car. Though a faint attempt was made by the appellant-Insurance Company to urge before the Claims Tribunal that one part of the highway was closed for repairs, there was no foundation laid for such an averment. The Tribunal, therefore, in our view, correctly held that the accident was caused on

account of sole negligence on the part of the matador driver. The learned counsel for the appellant-Insurance Company advisedly raised no contentions in this regard before this Court.

7. With respect to quantum of compensation awarded in both the claim petitions, particularly in the claim petition relatable to the death of deceased Timirbhai being MAC Petition No.760 of 1998, it would be useful to note at some length the evidence on record.

8. The claimants examined Shri Mahendrabhai, father of the deceased Timirbhai, at Exh.35 in the claim petitions. In his deposition, Mahendrabhai stated that his son was aged 43 years on the date of the accident. That he had educational qualification of B.Sc., Electrical Engineering. He had obtained the Degree from Birla Institute under Ranchi University. With respect to work experience of deceased Timirbhai, this witness stated that his son started his career in Gujarat Electricity Board. Thereafter he went to Saudi Arabia and was employed by one Kalogvaziyam Co. Ltd. where he worked from 13.5.1995 to 16.3.1996. The documentary evidence establishing this employment was produced on record. The witness stated that his son was earning Rs.4,000/- dirham per month while he was in Saudi Arabia which is equivalent to Rs.40,000/- in Indian currency. He stated that Timirbhai left Saudi Arabia in 1996 and came back to India on account of the ill-health of

the witness. Upon his return from Saudi Arabia, deceased Timirbhai joined Larsen & Toubro. The witness stated that the deceased was earning Rs.28,000/- per month from Larsen & Toubro. In addition thereto, he was also receiving provident fund, bonus, leave encashment, LTC, education allowance etc.. If the deceased had survived, he would have reached the salary of Rs.75,000/- per month.

With respect to the death of Shilpaben, this witness stated that she had the qualification of B.Sc. (Biochemistry). The degree certificate was produced on record. He stated that before marriage Shilpaben was working in a pharmaceutical company and served there till 1988. The documents in support of this statement were also produced. He stated that she was earning Rs.2,000/- per month, but left the job before her marriage. Before the accident, she was giving private tuitions and earning Rs.4,000/- per month according to the witness.

This witness also stated that her second son Parag is mentally disturbed and was dependent on deceased Timirbhai. He had left service in the year 1982.

The claimants examined one Shri Rohit Birendra Mohan Sinha at Exh.45 to establish the income of deceased Timirbhai on the date of the accident. This witness stated that he is serving in

Larsen & Toubro Co. as Manager, Personnel & Human Resources. He stated that deceased Timirbhai was engaged as a Manager by L & T. He was a graduate and an Engineer. He was an Electrical Engineer. He joined service on 1.7.1996. On 17.1.1998 when he expired, his gross salary was Rs.26,358/- per month. In addition to this, the deceased was also receiving other facilities such as telephone, medical reimbursement, free health check-ups etc.. The Company was also paying provident fund of Rs.1246/- per month to him. If the deceased had not died accidentally, he would have reached the position of Joint General Manager, Grade-7. His normal date of superannuation was 1.4.2014. The witness also stated that presently a Joint General Manager in his Company receives the basic salary of Rs.40,000/-. He also stated that if Timirbhai had superannuated from the Company, he would have received gratuity of Rs.3,69,000/- and provident fund of Rs.5,76,000/-. He stated that in the year 2014, the salary of Timirbhai would have been approximately Rs.59,925/- per month. In his cross-examination, this witness, however, agreed that for the period between 1.4.1997 to 17.1.1998, the Company had deducted tax at source of Rs.18,018/- from the salary of the deceased. He agreed that to establish future salary of the deceased, he does not have any documentary evidence. He stated that in the Company record, date of birth of the deceased is indicated as 18.10.1955.

9. On the basis of above oral as well as

documentary evidence, the learned advocates appearing for the parties made detailed submissions before us.

10. Learned advocate Shri KK Nair for the Insurance Company vehemently urged that the Claims Tribunal gravely erred in passing awards in both the claim petitions which according to him are excessive.

11. On the other hand, learned advocate Shri Hakim for the claimants supported the awards under challenge.

12. On behalf of the appellant-Insurance Company it was contended by the learned counsel that the Claims Tribunal erred in believing the monthly income of the deceased Timirbhai at Rs.19,600/- per month. He submitted that there was no documentary evidence to establish this income. He also contended that there was no proof on record to suggest that such income would have increased in future. He contended that the Tribunal, therefore, gravely erred in taking into account the prospective increase in the income of deceased Timirbhai. He further submitted that the claimants included the father of deceased Timirbhai, his minor son and so-called dependent brother. He contended that except for minor son of the deceased, the other two claimants had not established that they were dependent on the income of the deceased. He, therefore, contended that the Tribunal should not have deducted only one-third amount from the income of the deceased for his personal expenditure and

suggested that a much larger deduction was warranted.

In support of his contention, the learned counsel placed heavy reliance on the decision of the Hon'ble Supreme Court in the case of Bijoy Kumar Dugar vs. Bidyadhar Dutta, reported in 2006 (2) SCALE 744 wherein the Hon'ble Supreme Court observed in para 8 of the judgment that while calculating compensation, the annual dependency of the dependents should be determined in terms of the annual loss due to abrupt termination of life. To determine the quantum of compensation, the earnings of the deceased at the time of the accident and the amount which the deceased was spending for the dependents, are the basic determinative factors. It was further observed that there is no evidence produced on record by the claimants regarding further prospective increase of income in course of employment or business or profession, as the case may be and mere assertion by the claimants that the deceased would have earned more than Rs.8,000/- to Rs.10,000/- cannot be accepted as legitimate income unless all the relevant facts are proved by leading cogent and reliable evidence before the Tribunal. In the conclusion in paragraph 11 of the judgment, it was observed that in the present case as noticed, there is no evidence brought on record by the claimants to show the future prospects of the deceased.

He also relied on the judgment of the Apex Court in the case of Asha vs. United India Insurance

Co. Ltd., 2004 ACJ 448 wherein the Hon'ble Supreme Court was pleased to uphold the deductions of LIC, HBA etc. made by the High Court from the salary of the deceased for assessing compensation to be awarded to the claimants.

13. In the present case, one may notice that it was established on record that the deceased was Science graduate with an additional degree of Engineering in Electricals from a recognized university. Thus the deceased had very good educational qualifications. In addition thereto, he also had wide work experience. There was documentary evidence to establish that before his last employment in Larsen & Toubro, the deceased was employed in various other Companies including in Saudi Arabia. He had left his lucrative assignment in Saudi Arabia and returned to India as his father was not keeping good health. In fact to this statement of the witness Mahendrabhai (father of the deceased), there was no cross-examination on behalf of the Insurance Company or other opponents. It would thus appear that the deceased left a well paying job in Saudi Arabia and returned to India to look after his father. Upon his return, he joined Larsen & Toubro as a Manager.

14. There was evidence on record to suggest that his monthly salary was approximately Rs.19,000/- per month. Even the tax calculated by the employer at source of Rs.18,000/- for a truncated accounting year (shortened on account of sudden death of the

deceased) would demonstrate that the deceased was employed in a high salary bracket. The witnesses which included the General Manager (Personnel) of Larsen & Toubro had stated before the Tribunal that besides basic salary, the deceased was also receiving other perquisites in the form of additional allowances, such as medical benefits, LTC and contribution of the employer towards provident fund. Considering all these aspects of the matter, we find that the Tribunal committed no error while accepting monthly salary of the deceased at Rs.19,600/- on the date of the accident.

In case of Asha vs. United India Insurance Co. Ltd. (supra) it is true that the Apex Court upheld the deductions of contributions towards LIC, Society charges and HBA. The said decision does not lay down a ratio that each and every deduction from the gross salary of an employee has to be reduced while fixing his income. There are large number of voluntary deductions often agreed to by employees which only augment their savings. Deductions towards provident fund contributions and other similar investment cum-tax saving deductions cannot be utilized to reduce the salary income of an employee to assess future loss.

15. With respect to the dependency of the claimants, it may be seen that the father of the deceased was aged about 71 years on the date of the accident. He had retired long back and was stated to

be residing with the deceased. His dependency on the deceased, therefore, cannot be doubted. Additionally, there was also material on record to suggest that the brother of the deceased Paragbhai aged about 43 years on the date of the accident, was mentally ill and had lost his job way back in the year 1982. The deceased also would surely have supported his brother out of his salary income. Even if there is some doubt about the assertion of mental instability of the brother of the deceased, the fact remains that he was rendered jobless right since 1982 and was unmarried. There is, therefore, no exaggeration in the claimants' contention that the deceased supported him also from his salary. The Claims Tribunal, therefore, while taking one-third out of the prospective income of the deceased for his personal expenditure and assigning two-third of his income for the benefit of the claimants, committed no error. Deceased Timirbhai who was the principal bread-winner of the family which comprised of himself, his wife, his minor son, aged father and unemployed brother cannot be expected to spend more than one-third out of his earnings for his exclusive personal expenditure. This contention of the learned counsel for the appellant also, therefore, requires to be turned down.

16. With respect to the question of future prospect of increase in the income of the deceased, it may be noted that as far back as in the year 1994, the Hon'ble Supreme Court in the case of General

Manager, Kerala SRTC vs. Sussamma Thomas reported in 1994 (2) SCC 176 observed that the determination of the quantum of compensation must answer what contemporary society "would deem to be a fair sum such as would allow the wrongdoer to hold up his head among his neighbours and say with their approval that he has done the fair thing". The Apex Court also took into account future prospects of advancement in life and career while determining the compensation.

17. In the case of Smt. Sarla Dixit vs. Balwant Yadav, reported in 1996 ACJ 581, the Apex Court considering the question of just compensation to be awarded to the dependents of an Army Officer found that he had good prospect to earn higher income in his future employment.

The ratio laid down by the Apex Court in the case of Susamma Thomas (supra) was noted with approval in the subsequent decision in the case of Lata Wadhwa vs. State of Bihar, 2001 (8) SCC 197.

This Court also in appropriate cases when there is evidence available on record has been accepting the principle of future increase in income.

In the case of United India Insurance Co. Ltd. vs. CG Mehta, 2003 (3) GLR 2386, the Division Bench of this Court enhanced the compensation awarded by the Claims Tribunal by taking into account prospective earnings of the deceased.

In the case of Ritaben vs. Ahmedabad Municipal Transport Service, 2000 ACJ 153 also the Division Bench of this Court considered prospective income to enhance the compensation granted to the claimants.

18. As noted earlier, the learned counsel for the appellant-Insurance Company has placed heavy reliance on the observations made by the Apex Court in the case of Bijoykumar Duggar (supra). In the said decision as noted, the Apex Court was pleased to find that except for mere assertion of the claimants that the deceased would have earned more than Rs.8000/- to Rs.10,000/- per month, there was no evidence to establish such averments. It was in this background that the Apex Court declined to take into account future rise in income.

19. The crux of the matter, however, is that when there is reliable evidence produced on record to suggest future rise in income, it would not be appropriate to disregard such evidence and to assess dependency benefit of the claimants on the basis of salary that the deceased was earning on the date of the accident.

20. In the present case, as noted earlier, there was voluminous evidence on record to suggest that the salary income of the deceased would have gone up substantially had his service career not been

curtailed on account of the unfortunate accident. The deceased had excellent educational qualifications. He was holding a Degree of B.Sc. with additional Degree of Engineering in Electricals from recognized University. He also had wide work experience. He started his career as an employee of Gujarat Electricity Board. He was thereafter employed in Saudi Arabia and was earning a handsome salary. He left his lucrative job and returned to India to take care of his aged ailing father. Upon his return, he was employed by Larsen & Toubro as a Manager. In addition to having excellent educational qualifications, the deceased thus had wide work experience. He had an excellent combination of youth and experience. In addition to very good educational qualifications, he had acquired variety of experience. Being about 43 years of age on the date of the accident, he also had number of years of service left. He thus had a perfect combination of youth and experience with fine educational qualifications as bonus. It can thus be easily seen that he had very bright prospects in life. With passage of time and seniority, he had every opportunity to rise further and make career advancement. He would have received periodic pay increments and also promotions in due course of time. By very nature of things, once a person is no more, there would be no precise evidence of his future income. Nevertheless the same can be culled out from facts and attending circumstances. In the present case, the claimants had laid a solid foundation to

establish before the Claims Tribunal that the deceased had a bright career ahead of him had the same not been curtailed on account of his sudden death. In our view, therefore, the Tribunal committed no error in taking into account the prospective income of the deceased by doubling the current income and thereafter taking average of the two sums to arrive at a uniform prospective income of the deceased for his entire life span. Through the evidence of the General Manager of Larsen & Toubro, the claimants had pointed out the pay-scales of other employees as on the date of the deposition. This was an additional evidence to establish the possibility of rise in income of the deceased.

21. In view of the above discussion, we find that the Tribunal committed no error in assessing the dependency benefit for the claimants as adopted by the Tribunal.

22. It was next contended that the multiplier adopted by the Tribunal is on the higher side. It was urged that for the deceased who was aged about 43 years on the date of the accident, the choice of multiplier of 13 was not correct. In support of the contention, the learned counsel relied on the following decisions of the Apex Court :-

(i) Asha & Ors. vs. United India Insurance Co. Ltd., 2004 ACJ 448.

(ii) TNSTC Ltd. vs. S Rajapriya, 2005 ACJ 1441

(iii)TNSTC Ltd. vs. KI Bindu, 2005(8) SCALE 173
(iv) UPSRTC vs. Krishna Bala, 2006 (7) SCALE 92
(v) Shakuntala & Ors. vs. V Balkrishna, 2003 (6) SCC 248.

23. In the written submissions tendered by the learned counsel, it is contended that the correct multiplier cannot be more than 12 in the present case.

24. We are in agreement with the submissions made by the learned counsel. We find that the Tribunal ought not to have accepted the multiplier of 13 for the death of Timirbhai and more appropriately the correct multiplier of 12 ought to have been adopted. As noted earlier, this is also the averment of the appellant-Insurance Company as can be seen from the written submissions. We may also note that learned counsel Shri Hakim for the claimants also did not oppose this proposed modification.

25. The learned counsel for the appellant-Insurance Company relied on several decisions of the Apex Court including in the case of Divisional Controller, KSRTC vs. Mahadeva Shetty, 2003 (7) SCC 197 and State of Haryana vs. Jasbir Kaur & Other, 2003 (7) SCC 484 as also in the case of TNSTC Ltd. vs. S Rajapriya, 2005 ACJ 1441 to urge that the award made by the Claims Tribunal is highly excessive and that the same cannot be termed as just compensation.

In case of Divisional Controller, KSRTC vs. Madadeva Shetty and Anr. (supra), the Apex Court observed that every method or mode adopted for assessing compensation has to be considered in the background of “just” compensation which is the pivotal consideration. It was observed that by use of the expression “which appears to it to be just”, a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness.

In case of State of Haryana & Anr. vs. Jasbir Kaur & Anr. (supra), the Apex Court observing that word “just” denotes equitability, fairness and reasonableness, finally awarded a compensation of Rs.4,34,000/- with 9% interest in case of death of an agriculturist whose monthly income was fixed at Rs.3,000/- per month.

In case of TN State Transport Corpn. Ltd. vs. S Rajapriya and Anr. (supra), the Apex Court was pleased to reduce the multiplier from 16 adopted by the High Court for the deceased who was aged 38 years on the date of accident and applied a reduced multiplier of 12 and on that basis, the Apex Court worked out the compensation payable to the claimants at Rs.4,50,000/- taking into account the salary of the deceased on the date of accident at Rs.4688/- per month.

26. We have discussed the evidence on record threadbare hereinabove. We find that the assessment of current and future income adopted by the Tribunal is borne out from the record. We have given our detailed reasons in support of our conclusions. It would, therefore, not be necessary to make reference to the above decisions at further length. Suffice it to say, we do not find that the Tribunal committed any error in assessing the income of deceased Timirbhai.

27. We, however, as noted above, find that the multiplier of 12 should be accepted in this case. The entire compensation awarded by the Tribunal would, therefore, have to be modified accordingly. As against the loss of dependency benefit of Rs.30,57,600/- awarded by the Claims Tribunal, the claimants would be entitled to dependency benefit of Rs.28,22,400/- (i.e. Rs.19,600 X 12 = Rs.2,35,200 X 12 = Rs.28,22,400). The other additions of loss to estate and funeral expenses remain unchanged. The claimants would, therefore, be entitled to receive a compensation of Rs.28,47,400/-.

28. With respect to the claim petition filed by the minor son for death of his mother, we are in broad agreement with the conclusions of the Tribunal. Through documentary evidence it was established that the deceased was a Science graduate. Prior to her marriage, she was serving in a private company and

earning Rs.2,000/- per month. After marriage, it was stated that she was giving private tuitions. Against the assertion that she was earning Rs.4,000/- per month, the Tribunal accepted her monthly income at Rs.2,000/- and worked out the dependency benefits by taking into account future income and reducing the average of the two by one-third, we find no error having been committed b the Tribunal.

29. With respect to the award of interest, we notice that the Tribunal has awarded uniform interest of 7.5% per annum from the date of the claim petitions till realization of the amounts. Ordinarily considering the current rate and steady rise in bank interest rates, we would have been tempted to increase the rate of interest from 7.5% p.a. To 9% p.a.. However, considering the quantum of compensation, we find that the direction for payment of interest at the rate of 7.5% per annum should be left unchanged.

30. In the result, First Appeal No.4893 of 2006 is partially allowed. The claimants would be entitled to receive a total compensation of Rs.28,47,400/- with proportionate costs and interest at the rate of 7.5% p.a. from the date of the claim petition till realization. Award drawn by the Claims Tribunal stands modified accordingly.

Even while thus disposing of the appeal, we notice that the Claims Tribunal in its judgment under

challenge while disposing of Claim Petition No.760 of 1998 has not made any apportionment between the claimants inter-se. In facts of the case it is directed that the above amount as per modified award shall be apportioned in the following proportion :-

60% for claimant No.1 i.e. son of deceased Timirbhai.

20% for claimant No.2 i.e. father of deceased Timirbhai.

20% for claimant No.3 i.e. brother of deceased Timirbhai.

So far as First Appeal No.4895 of 2006 relatable to claim petition No.1878 of 1998 is concerned, the appeal is dismissed.

The amount deposited by the appellant before this Court at the time of filing the appeals shall be transmitted to the Tribunal.

31. Since the appeals are disposed of, the civil applications for stay also does not survive and the same are accordingly disposed of.

(M.S. SHAH, J.)

(AKIL KURESHI, J.)

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